

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

SHELBY COUNTY, TENNESSEE

Plaintiffs,

v.

Case No. 2:21-cv-02550-SHL-atc

GOVERNOR BILL LEE, in his official
Capacity as GOVERNOR OF THE STATE
OF TENNESSEE,

Defendant.

**NOTICE OF WITHDRAWAL OF
MOTION FOR PRELIMINARY INJUNCTION**

PLEASE TAKE NOTICE THAT Plaintiff Shelby County, Tennessee (the “County”) hereby withdraws its Motion for Preliminary Injunction (the “Motion”), filed September 3, 2021. (ECF No. 23).

On August 26, 2021, the County filed its Verified Complaint (ECF No. 1) for declaratory, injunctive and other relief. Subsequent to the County’s filing, on August 27, 2021, “school-age children with disabilities that render them medically vulnerable to COVID-19” filed a putative class action in District Court for the Western District of Tennessee by and through their parents and next friends seeking, *inter alia*, emergency injunctive relief, Case No. 2:21-cv-02552-SHL-atc (the “Children’s Action”). Plaintiffs in the Children’s Action attend schools within Local Education Agencies (LEA) in Shelby County, Tennessee.

The County has been named as a defendant in the Children’s Action. The County and Plaintiffs in the Children’s Action both seek to enjoin Defendant Governor Bill Lee from

permitting parents of students in Shelby County to opt-out of any mask mandate that may be contained in Shelby County's operative Amended Health Order. Tenn. Exec. Order No. 84 (Aug. 16, 2021), <https://publications.tnsosfiles.com/pub/execorders/exec-orders-lee84.pdf> ("Order 84"). On September 17, 2021, this Court entered a Preliminary Injunction in the Children's Action, which enjoins Governor Lee from enforcing Executive Order No. 84 in Shelby County. Although the causes of action in the two cases differ, the request for injunctive relief was similar. Consequently, in the interest of judicial economy and to avoid further cost to the Parties at this stage, Shelby County hereby withdraws its pending request for injunctive relief and will proceed in this case on the normal course. Shelby County reserves the right to re-assert a request for injunctive relief, should the status of the Preliminary Injunction Order in the Children's Action change.

Undersigned counsel notified counsel for Governor Lee of its intent to withdraw its motion on September 17, 2021.

Respectfully submitted,

BURCH, PORTER AND JOHNSON, PLLC

s/Tannera George Gibson

NATHAN A. BICKS (BPR #10903)

TANNERA GEORGE GIBSON (BPR #27779)

CHARLES SILVESTRI HIGGINS (BPR #30184)

SARAH E. STUART (BPR #35329)

130 North Court Avenue

Memphis, TN 38103

Telephone: (901) 524-5000

Email: nbicks@bpjlaw.com

tgibson@bpjlaw.com

chiggins@bpjlaw.com

sstuart@bpjlaw.com

and

MARLINEE C. IVERSON (BPR #18591)
SHELBY COUNTY ATTORNEY
E. LEE WHITWELL (BPR #33622)
ASSISTANT COUNTY ATTORNEY
160 North Main Street, Suite 950
Memphis, TN 38103
Telephone: (901) 222-2100
Email: marlinee.iverson@shelbycountyttn.gov
lee.whitwell@shelbycountyttn.gov

Counsel for Defendant Shelby County, Tennessee

CERTIFICATE OF SERVICE

I hereby certify that on September 20, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will operate to provide notice of this filing to all counsel of record in this case.

s/Tannera George Gibson
Tannera George Gibson